

Patrick L. Rocco (PR-8621)  
**FLEISCHMAN BONNER & ROCCO LLP**  
447 Springfield Avenue, 2nd Floor  
Summit, New Jersey 07901  
(908) 516-2045  
Email: [procco@fbrllp.com](mailto:procco@fbrllp.com)

*Attorneys for Applicant*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

In re: Application of CALIFORNIA STATE  
TEACHERS' RETIREMENT SYSTEM for an  
Order pursuant to 28 U.S.C. § 1782 Granting  
Leave to Obtain Discovery for Use in a Foreign  
Proceeding

Civil Action No. \_\_\_\_\_

**EX PARTE APPLICATION FOR AN ORDER PURSUANT  
TO 28 U.S.C. § 1782 GRANTING LEAVE TO OBTAIN  
DISCOVERY FOR USE IN A FOREIGN PROCEEDING**

Applicant California State Teachers' Retirement System ("CalSTRS" or "Applicant"), through its undersigned counsel, based upon the concurrently filed memorandum of law and Declarations of Patrick L. Rocco, Thomas Ryhl and Professor Clement Salung Petersen, and pursuant to 28 U.S.C. § 1782, respectfully applies to this Court *ex parte* for an order authorizing CalSTRS to serve a subpoena in the form of annexed as Exhibit A hereto (the "Subpoena") for the production of documents by Novo Nordisk, Inc. ("Novo US"), 800 Scudders Mill Road, Plainsboro, New Jersey. The Subpoena directs Novo US to produce documents for use in a foreign proceeding in Denmark against Novo Nordisk A/S, which is Novo US's parent company, alleging that Novo Nordisk A/S overstated the effect that the efficacy of its insulin products would have on Novo Nordisk A/S's profitability based on United States sales, and that Novo Nordisk A/S withheld its knowledge that its insulin product sales in the United States, like those

of other manufacturers, were dependent on rebates to pharmacy benefit managers, which reduced Novo Nordisk A/S's profitability.

This application meets the statutory requirements of Section 1782. CalSTRS is a plaintiff in the Danish proceeding against Novo Nordisk A/S, and therefore is an interested person seeking discovery from Novo US for use in the Danish proceeding. Novo US has its headquarters and principle place of business at 800 Scudders Mill Road, Plainville, New Jersey, and as such can be found in this district. CalSTRS respectfully requests the Court to exercise its discretion in favor of the requested discovery because Novo US is not a participant in the Danish proceeding and is beyond the jurisdiction of the Danish court. CalSTRS is not using this application to circumvent the requirements of any foreign tribunal, and there is no indication that the Danish court will not be receptive to the evidence obtained through the requested discovery. Finally, the requested discovery is highly relevant to the Danish proceeding and is neither unduly burdensome nor intrusive. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 262-65 (2004).

Section 1782 applications such as this one are commonly received and granted *ex parte*. *See In re Owl Shipping, LLC*, 2014 WL 5320192, at \*1 & n.1 (D.N.J. Oct. 17, 2014) (granting *ex parte* application for discovery pursuant to Section 1782); *In re Ex Parte Application of Societe d'Etude de Realisation et d'Exploitation Pour le Traitement du Mais*, 2013 WL 6164435, at \*2 n.1 (E.D. Pa. Nov. 22, 2013) ("[I]t is neither uncommon nor improper for district courts to grant applications made pursuant to § 1782 *ex parte*."); *In re Mesa Power Grp. LLC*, 2012 WL 6060941, at \*4 (D.N.J. Nov. 20, 2012) ("[I]t is 'appropriate for this Court to issue the order on an *ex parte* basis, without prejudice to the rights of the subpoenaed parties to file a motion to vacate or quash' within thirty days of the issuance of this order."); accord L.Civ.R. 27.1(a) (expressly

permitting *ex parte* application for order to depose witness who may be found in district for use in judicial proceeding pending in foreign country).

WHEREFORE, CalSTRS respectfully requests that this Court enter an Order:

1. Approving CalSTRS' application for discovery; and
2. Granting CalSTRS leave to serve the Subpoena as it appears herein and take the requested discovery in accordance with the Federal Rules of Civil Procedure;
3. Directing Novo Nordisk, Inc. to produce the documents in its possession, custody, or control, as requested in Schedule A of the Subpoena, in accordance with the Federal Rules of Civil Procedure; and
4. For such other and further relief as the Court deems proper.

Dated: August 7, 2019  
Summit, New Jersey

Respectfully submitted,

FLEISCHMAN BONNER & ROCCO LLP

By: /s/ Patrick L. Rocco  
447 Springfield Avenue, 2nd Floor  
Summit, New Jersey 07901  
908-516-2045  
E-mail: procco@fbrllp.com

*Attorneys for Applicant*

*Of Counsel:*

Irwin B. Schwartz\*  
Nicholas R. Cassie\*  
BLA SCHWARTZ PC  
One University Avenue, Suite 302(b)  
Westwood, Massachusetts 02090  
781-636-5000

\* Not admitted in D.N.J. Motions for *pro hac vice* admission will be filed.